

## **REMARKS**

Applicant respectfully requests reconsideration of this application in view of the following remarks.

### **Status of the Claims**

Claims 1-28, 115-122, 127, 128, 132 and 133 are pending.

### **Summary of the Office Action mailed 08/07/2009**

Claim 1 stands rejected under 35 USC §102(b) as being allegedly anticipated by Ham et al. (US Patent No. 5,456,667).

Claims 2-21 stand rejected under 35 USC §103(a) as being allegedly unpatentable over Webster (US Patent No. 6,123,699) in view of Ham et al. (US Patent No. 5,456,667).

Claims 22-28 stand rejected under 35 USC §103(a) as being allegedly unpatentable over Webster (US Patent No. 6,123,699) in view of Ham et al. (US Patent No. 5,456,667) in further view of Edwards et al. (US Patent No. 6,254,598).

Claims 115-122, 127-128, 132 and 133 stand rejected under 35 USC §103(a) as being allegedly unpatentable over Webster (US Patent No. 6,123,699) in view of Ham et al. (US Patent No. 5,456,667) in further view of Edwards et al. (US Patent No. 6,254,598) and in further view of Balbierz (US Patent No. 6,770,070).

### **Rejection under 35 USC §102(b) – claim 1**

Claim 1 stands rejected under 35 USC §102(b) as being allegedly anticipated by Ham et al. (US Patent No. 5,456,667).

Ham describes a catheter with an expandable region 12 formed of a tubular material that continues the distal end of the catheter. See Abstract. In particular, FIG. 1 of Ham illustrates a catheter having “an expandable region 12 beginning at the distal end of the catheter body and continuing the catheter body in a one-piece configuration.” Ham further defines the “distal portion of catheter body 11...extends from side port 21 in sidewall 22 of tubular catheter body 11 to port 23 provided in the distal end of the catheter body.” Ham, Col. 5, lines 23-25.

In contrast, claim 1 recites in part “a first lumen of said catheter shaft, said first lumen being approximately centrally located within said catheter shaft at said catheter proximal section and said first lumen located off-center of said catheter shaft at said catheter distal section.” The Office Action alleges that “Ham discloses...a proximal section (bottom) and distal (top)...(note lumen position is central as it approaches near 44)...(note lumen position is off center as it approaches near top area and numeral 17)...” Page 2 of Office Action mailed 08/07/2008. Applicants respectfully disagree. As specified in Ham, the distal portion of the catheter is defined from side port 21 to port 23. As such, the proximal portion of the catheter extends from the handle to side port 21. In that proximal portion of the catheter, the first inner lumen 17 is not “approximately centrally located” within the catheter shaft but is located off center within the catheter shaft. See FIG. 1 of Ham. Thus, Ham does not teach or suggest “said first lumen being approximately centrally located within said catheter shaft at said catheter proximal section.”

Furthermore, the Office Action alleges that a portion of the catheter in FIG. 1 of Ham illustrates a distal portion of the catheter where the “lumen position is off center as it approaches near top area and numeral 17.” If the distal portion of the catheter were to be defined as stated in the Office Action, Ham would still not teach or describe “said tendon being able to deflect said catheter distal section when being pulled on” as recited in part in claim 1. The control cable 13 of Ham does not deflect the distal portion as defined by the Office Action but instead adjusts the axial spacing between ends 14 and 15 of expandable region 12. See Col. 5, lines 61-65.

The presently claimed invention is, accordingly, distinguishable over the cited reference. In the view of the foregoing, it is respectfully asserted that claim 1 is now in condition for allowance.

#### **Rejection under 35 USC §103(a) – claims 2-21**

Claims 2-21 stand rejected under 35 USC §103(a) as being allegedly unpatentable over Webster (US Patent No. 6,123,699) in view of Ham et al. (US Patent No. 5,456,667).

Webster describes a steerable catheter. As admitted in the Office Action mailed 08/07/2008, Webster does not disclose “said first lumen being approximately centrally located within said catheter shaft at said catheter proximal section and said first lumen located off-center of said catheter shaft at said catheter distal section” as recited in part in claim 1.

Applicant respectfully submits that the proposed combination of Webster and Ham does not teach or suggest all of the claim limitations of claims 2-21. In particular, neither Webster nor Ham teach or suggest “said first lumen being approximately centrally located within said catheter shaft at said catheter proximal section and said first lumen located off-center of said catheter shaft at said catheter distal section.” The arguments set forth above with respect to Rejection under 35 USC §102(b) are at least equally applicable.

Applicant therefore submits that the rejection based the Webster and Ham reference be withdrawn. Thus, Applicant submits that claims 2-21 recite novel subject matter which distinguishes over any possible combination of Webster and Ham.

#### **Rejection under 35 USC §103(a) – claims 22-28**

Claims 22-28 stand rejected under 35 USC §103(a) as being allegedly unpatentable over Webster (US Patent No. 6,123,699) in view of Ham et al. (US Patent No. 5,456,667) in further view of Edwards et al. (US Patent No. 6,254,598).

Applicant respectfully submits that the proposed combination of Webster, Ham and Edwards does not teach or suggest all of the claim limitations of claims 22-28. The arguments set forth above with respect to Rejection under 35 USC §102(b) are at least equally applicable.

Applicant therefore submits that the rejection based the Webster, Ham and Edwards reference be withdrawn. Thus, Applicant submits that claims 2-28 recite novel subject matter which distinguishes over any possible combination of Webster, Ham and Edwards.

#### **Rejection under 35 USC §103(a) – claims 115-122, 127-128, 132 and 133**

Claims 115-122, 127-128, 132 and 133 stand rejected under 35 USC §103(a) as being allegedly unpatentable over Webster (US Patent No. 6,123,699) in view of Ham et al. (US Patent No. 5,456,667) in further view of Edwards et al. (US Patent No. 6,254,598) and in further view of Balbierz (US Patent No. 6,770,070).

Applicant respectfully submits that the proposed combination of Webster, Ham, Edwards and Balbierz does not teach or suggest all of the claim limitations of claims 115-122, 127-128, 132 and 133. The arguments set forth above with respect to Rejection under 35 USC §102(b) are at least equally applicable.

Applicant therefore submits that the rejection based the Webster, Ham, Edwards and Balbierz reference be withdrawn. Thus, Applicant submits that claims 115-122, 127-128, 132 and 133 recite novel subject matter which distinguishes over any possible combination of Webster, Ham, Edwards and Balbierz.

**Conclusion**

For all of the above reasons, applicants submit that the amended claims are now in proper form, and that the amended claims all define patentable subject matter over the cited reference arts. Therefore, Applicants submit that this application is now in condition for allowance.

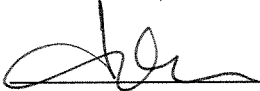
**Extension of Time**

Pursuant to 37 C.F.R. 1.136(a)(3), applicant(s) hereby request and authorize the U.S. Patent and Trademark Office to (1) treat any concurrent or future reply that requires a petition for extension of time as incorporating a petition for extension of time for the appropriate length of time and (2) charge all required fees, including extension of time fees and fees under 37 C.F.R. 1.16 and 1.17, to Deposit Account No. 02-2666.

Respectfully submitted,

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